

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DANIEL L. HELLMUTH,	:	Case No. 1:19-cv-258
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	Magistrate Judge Stephanie K. Bowman
vs.	:	
	:	
CITY OF TRENTON, OHIO, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 20)**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, on August 5, 2019, the Magistrate Judge entered a Report and Recommendation. (Doc. 20). Plaintiff filed objections on August 14, 2019. (Doc. 21). Subsequent to entry of the Report and Recommendation, Plaintiff made several additional filings in this case, including two motions for summary judgments (Docs. 24, 30) and objections to the Magistrate Judge's prior Order denying Plaintiff's motion for recusal (Doc. 31).

The Report and Recommendation recommends denying Plaintiff's construed motion to remand (Doc. 6) and granting Defendants' motion for judgment on the pleadings (Doc. 5). The Report and Recommendation outlines the case history in great detail and provides background on three additional, related cases that were either filed in or removed to this Court. (Doc. 20 at 1) (*See* Case Nos. 1:18-cv-340; 1:18-cv-397; 1:19-cv-303). Plaintiff initiated the instant action in the Butler County Court of Common

Pleas against the City of Trenton, Ohio, Mayor Calvin Woodrey, and Vice Mayor Richard Miller, as well as several individual members of the Trenton City Council. (*See* Doc. 2). Defendants removed the case on April 9, 2019. (Doc. 1).

The gist of Plaintiff's complaint is that Defendants failed to intervene in or investigate an incident involving Plaintiff's retrieval of property from a residence in Trenton County, Ohio that was the center of a property dispute between Plaintiff and his daughter. (Doc. 2). Plaintiff asserts that this failure to act gives rise to six claims in violation of various state and federal laws. (*Id.* at 3-4). The Magistrate Judge ultimately recommended granting Defendants' motion for judgment on the pleadings and dismissing the case on two grounds: (1) Defendants are immune from liability under Ohio Rev. Code § 2744, and (2) Plaintiff failed to state a cognizable claim for relief. (Doc. 20 at 12-14, 15-17).

Plaintiff's objections take issue with certain factual statements in the Report and Recommendation (Doc. 21 at ¶¶ 1, 2, 3, 4, 5, 7); however, these statements do not impact the Magistrate Judge's findings. For example, Plaintiff objects to the Magistrate Judge's characterization of his claims as relating to the underlying property dispute between him and his daughter—asserting that the federal claims were not about the property dispute, but rather, the Defendants' actions *surrounding* the property visitation incident and state-court litigation. (*Id.* at ¶ 5). Yet, the Magistrate Judge took great care in describing Plaintiff's claims, explaining that the claims involved actions of the City and City officials. (*See, e.g.,* Doc. 20 at 8) (noting that Plaintiff states in his Complaint that the

case “is **NOT** about a property dispute but it **IS** about the City of Trenton’s *failure to do a proper investigation* . . .”) (emphasis in original). In addition, Plaintiff’s objection to the Magistrate Judge’s statement regarding the prior dismissal of claims against state-court Magistrate Judge Busch-Heyman on the basis of judicial immunity is misplaced, as that statement was made in reference to one of Plaintiff’s other cases—Judge Busch-Heyman is not a defendant in the instant case. (*See* Doc. 20 at ¶ 6).

The Court has reviewed the comprehensive findings of the Magistrate Judge pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b) and has considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that the Report and Recommendation (Doc. 20) should be and is hereby **ADOPTED** in its entirety.

Accordingly, for the reasons stated above:

- 1) Plaintiff’s construed motion to remand (Doc. 6) is **DENIED**;
- 2) Defendants’ motion for judgment on the pleadings (Doc. 5) is **GRANTED**;
- 3) Plaintiff’s Complaint (Doc. 2) is **DISMISSED with prejudice**;
- 4) Plaintiff’s pending motions (Docs. 24, 30) and objections (Doc. 31) are **DENIED as moot**;
- 5) The Clerk shall enter judgment accordingly, whereupon this case is **TERMINATED** from the docket of this Court.

IT IS SO ORDERED.

Date: 2/4/2020

/s/ Timothy S. Black
Timothy S. Black
United States District Judge